

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)
_____)

MDL No. 2419
Dkt. No 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:)

Suits Naming the Tennessee Clinic)
Defendants and the Saint Thomas Entities)
_____)

**TENNESSEE CLINIC DEFENDANTS AND SAINT THOMAS ENTITIES’
ASSENTED-TO MOTION TO ALLOW MASTER ANSWERS**

The Tennessee Clinic Defendants¹ and the Saint Thomas Entities² (collectively, “the Defendants”) hereby move, with the assent of the Plaintiffs’ Steering Committee (“the PSC”), to allow them to file master answers in representative cases in lieu of answers in each of the cases in which they have been sued.

In support of this motion, the Tennessee Clinic Defendants and the Saint Thomas Entities state as follows:

1. The Tennessee Clinic Defendants and the Saint Thomas Entities, separately, filed motions to dismiss in lieu of filing answers to the Master Complaint and the dozens of individual complaints filed against them.³

2. On August 29, 2014, the Court issued a Memorandum Decision granting

¹ Saint Thomas Outpatient Neurosurgical Center, LLC; Howell Allen Clinic, a Professional Corporation; John W. Culclasure, MD; Debra V. Schamberg, RN; Specialty Surgery Center, Crossville, PLLC; Kenneth R. Lister, MD; Kenneth Lister, MD, PC; and Donald E. Jones, MD.

² Saint Thomas West Hospital f/k/a St. Thomas Hospital; Saint Thomas Health; and Saint Thomas Network.

³ Dkts. 770, 771, 779, 893.

in part and denying in part the various motions to dismiss.⁴

3. Pursuant to FED. R. CIV. P. 12(a)(4)(A), the Tennessee Clinic Defendants and the Saint Thomas Entities were required to file answers to the dozens of complaints against them by September 12, 2014.

4. On September 11, 2014, the Tennessee Clinic Defendants and the Saint Thomas Entities, with the assent of the PSC, filed a motion respectfully requesting an extension to September 30, 2014 to file their respective answers.

5. The parties have further conferred and agreed that the Tennessee Clinic Defendants and the Saint Thomas Entities each file separate Master Answers to the Master Complaint as well as one answer to a representative short form complaint as follows

- The Saint Thomas Entities will file an answer to the *Reed* Short Form Complaint, which is Dkt. No. 34 in Individual Case No. 1:13-cv-12565, including all incorporated allegations in the original complaint and attachments thereto (Dkt. No. 1);
- Saint Thomas Outpatient Neurosurgical Center, LLC, Howell Allen Clinic, a Professional Corporation, John W. Culclasure, MD, and Debra V. Schamberg, RN will file an answer to the *Reed* Short Form Complaint, which is Dkt. No. 34 in Individual Case No. 1:13-cv-12565, including all incorporated allegations in the original complaint and attachments thereto (Dkt. No. 1);
- Specialty Surgery Center, Crossville, PLLC, Kenneth R. Lister, MD, and

⁴ Dkt. 1360.

Kenneth Lister, MD, PC, will file an answer to the *Bumgarner* Short Form Complaint, which is Dkt. No. 29 in Individual Case No. 1:13-cv-12679, including all incorporated allegations in the original complaint (Dkt. No 1).

6. The parties agree to stay the deadline for Donald E. Jones, MD to file answers in the two suits against him.⁵ Accordingly, Dr. Jones will file answers at a time to be agreed upon later.

7. The Tennessee Clinic Defendants and the Saint Thomas Entities do not waive any defenses to claims or allegations not made in the answered complaints, and reserve the right to file answers to other Short Form Complaints as necessary to address other allegations, claims, and causes of action.

8. By filing answers in *Reed* and *Bumgarner*, the Tennessee Clinic Defendants and the Saint Thomas Entities do not waive their right to, at a later date, file dispositive motions on case-specific issues in these suits, or any other suits, including failure to comply with Tenn. Code Ann. § 29-26-121 and/or § 29-26-122.

WHEREFORE, the Tennessee Clinic Defendants and the Saint Thomas Entities respectfully request, with the assent of the PSC, that the Court grant their motion and enter an Order modifying their answer requirements as outlined herein.

⁵ *Seiber v. Ameridose, LLC, et al.*, Case Nos. 1:13-cv-1868, 1:14-cv-10273; *Daugherty v. Total Healthcare Consultants, et al.*, Case No. 1:14-cv-10430.

Respectfully submitted,

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AND

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CERTIFICATE OF SERVICE

I, Sarah P. Kelly, certify that this document filed through the CM/ECF system will be served electronically to the registered participants identified on the Notice of Electronic Filing.

/s/ Sarah P. Kelly

Sarah P. Kelly